

SERCARZ & RIOPELLE, LLP

CARNEGIE HALL TOWER
152 WEST 57TH STREET, 24TH FLOOR
NEW YORK, NEW YORK 10019
(212) 586-4900
FACSIMILE (212) 586-1234

ROLAND G. RIOPELLE
MAURICE H. SERCARZ*

DIANE FERRONE

* ADMITTED IN NY & NJ

May 14, 2010

VIA ECF

The Honorable Viktor V. Pohorelsky
U.S. Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Michael Hosny Gabriel, 10 Mag. 211

Your Honor:

This firm is counsel to the defendant, Michael Gabriel. We respectfully write in response to the memorandum from the United States Pretrial Services Agency for the Eastern District of New York to your Honor dated May 13, 2010.

On March 11, 2010, your Honor granted defendant's request to add Clearwater, Florida to the list of permitted places he may travel without Court permission, so long as the defendant provided an address of where he would be staying in Florida to pre-trial services before his departure.

On March 25, 2010, Mr. Gabriel had his first meeting with a pre-trial services officer in the Southern District of West Virginia, the office closest to his parents' home in Ohio, where the defendant has been residing since his arrest on March 4, 2010.

Since he was assigned a pre-trial services officer in West Virginia, the defendant has made only one trip to Clearwater, Florida. He departed on Sunday May 2, and left a message for pre-trial services office that same day advising her that he would be in Florida for the next week. The defendant subsequently left messages on Monday and Tuesday, May 3 and 4. Regrettably, since he was in Florida, the defendant missed his pre-scheduled monthly meeting with his pre-trial services officer, which was scheduled for Wednesday May 5. The defendant did not speak

The Honorable Viktor V. Pohorelsky
May 14, 2010
Page 2

to his pre-trial services officer until the morning of Wednesday May 5. This is the only meeting with his pre-trial services officer that the defendant has missed.

While under supervision, the defendant has had two random drug tests, both of which were negative. The only random drug test the defendant missed was during this recent trip to Florida. While in Florida, on Monday May 3 the defendant learned that he had been selected for a random drug screening. Realizing he was going to miss it, he immediately called his pre-trial services officer, but did not hear back from her until Wednesday May 5.

The defendant took immediate steps to be in compliance with the terms of his supervision. On Wednesday May 5, he purchased a ticket so that he could return to Ohio by 3 pm that day and meet with his pre-trial services officer. Unfortunately, his flight was delayed and the defendant did not return until Thursday May 6. On that day he went to the pre-trial services office and was told that his pre-trial services officer was out of town for the next two days.

Finally, with respect to drug counseling, the defendant attended one session at Prestera Center in Huntington, West Virginia on April 6, 2010. The defendant paid \$250 for a counseling session with a social worker. The defendant was told that Prestera Center would follow-up directly with his pre-trial services officer, who would thereafter provide further instructions. The defendant met with his pretrial services officer the following day, Wednesday April 7, and she informed the defendant that she had not yet been contacted by Prestera Center. The defendant thereafter contacted the Prestera Center and was again informed that they would follow-up directly with his pre-trial services officer. The defendant never received any additional instructions with regard to drug counseling from either Prestera Center or his pre-trial services officer.

In the future, the defendant will not travel to Florida without obtaining prior verbal permission from his pre-trial services officer. Also, the defendant will not seek permission to travel to Florida during a period of time that would require him to miss scheduled meetings with his pre-trial services officer or drug counseling sessions. Accordingly, we respectfully request that the Court order that the Southern District of West Virginia continue to supervise the defendant.

Respectfully yours,

/S/

Roland G. Riopelle
Diane Ferrone

cc: AUSA Justin Lerer (via ECF)
Pre-trial services officer Erin J. Rodriguez (via facsimile)